REMARKS

This is a full and timely response to the outstanding FINAL Office Action mailed June 10, 2009. Upon entry of this response, claims 1, 4-15, 18-22, and 27 remain pending in the present application. Applicants respectfully request consideration of the following remarks contained herein.

***Boer* Should be Removed from Consideration**

Applicants respectfully maintain that *Boer et al.* (U.S. Pub. No. 2004/0101035, hereinafter "*Boer*") should be removed from consideration in view of the declaration pursuant to 37 CFR 1.131 submitted with the last filed response. In the Response to Arguments section of the present Office Action, the Examiner indicates that Applicants' declaration filed March 11, 2009 does not sufficiently establish the earlier conception date of October 28, 2002 for various reasons. Specifically, the Examiner alleges that Applicants' declaration contains vague and general statements about what the exhibits attached to the declaration describe. Applicants object to the manner in which the Examiner has simply dismissed the 131 declaration, as Applicants disagree with the articulated bases set forth by the Examiner.

First, the Examiner refers to the fact that Applicants rely on exhibits written in Chinese. Applicants emphasize again, however, that 37 CFR 1.131 does not require that all supporting attachments be in English, nor does it require that the supporting attachments independently verify the statements set forth in the declaration. Instead, 37 CFR merely requires that a declaration under 37 CFR 1.131 be accompanied with Exhibits that support the statements (not independently verify the statements) made in the declaration. Here, the inventors are all fluent in Chinese and understand the

contents of the Chinese language attachments. Those attachments have been referenced to properly support the underlying statements set forth in the declaration. Applicants clearly explained the significance of the exhibits and pointed out which facts were established and relied upon by Applicants. As set forth in the closing paragraph of the 131 declaration, Applicants declared that all statements made based on their own knowledge were true and that all statements made on information and belief were believed to be true. Applicants also declared that the statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under §1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon. In this regard, the Examiner's role is not to verify the accuracy of the statements. Rather, the Examiner is to accept the declarations on the part of the inventors as being truthful. The Applicants should not have to bear the costs of providing an English translation in order to prove the statements set forth in the declaration. In fact, the USPTO has many resources available to assist in its evaluation of the declaration, including translators on-site who can readily translate the exhibits should the Examiner continue to deem it necessary to independently authenticate Applicants' declaration.

The Examiner also claims that Applicants did not show diligence during the period spanning October 28, 2002 to November 27, 2002. However, while the Examiner quickly dismisses Applicants' declaration for failing to show diligence, the Examiner is completely silent on what would constitute diligence. In fact, Applicants believe that the Examiner is ignoring the business realities of organizations. Within any

organization, individuals multi-task and typically work on more than one task at any given time. As such, Applicants question the reasonableness of the Examiner's assertion. To relate Applicants' position to terms that the Examiner can appreciate, Applicants respectfully point out that the present FINAL Office Action was mailed June 10, 2009, or approximately three months from the date in which Applicants filed the last response (March 11, 2009). Yet, Applicants do not question the Examiner's diligence in issuing the present Office Action. The reality is that the Examiner has many other duties beyond just examining the present application, with such duties including the examination of other applications. Likewise, the Examiner should appreciate that employees of a corporate organization have to balance many tasks, and the passage of one month on a given task should not be considered as being an unreasonable or dilatory delay. Finally, Applicants respectfully refer the Examiner to MPEP 2138.06 ("Reasonable Diligence") which states the following:

> The diligence of 35 U.S.C. 102(g) relates to reasonable "attorney-diligence" and "engineering-diligence" (*Keizer v. Bradley*, 270 F.2d 396, 397, 123 USPQ 215, 216 (CCPA 1959)), ***which does not require that "an inventor or his attorney drop all other work and concentrate on the particular invention involved***." *Emery v. Ronden*, 188 USPQ 264, 268 (Bd. Pat. Inter. 1974).

(Emphasis added).

In view of the foregoing, Applicants respectfully maintain that *Boer* should be removed from consideration, because Applicants invented the claimed embodiments prior to the November 27, 2002 filing date of *Boer*. Applicants conceived the claimed embodiments at least as early as October 28, 2002 and diligently pursued the present invention until at least February 26, 2003, which is the priority date of the present application (*i.e.,* the filing date of Taiwan Application serial number 92104605).

CONCLUSION

Applicants respectfully submit that all pending claims are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephone conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.

No fee is believed to be due in connection with this response to Office Action. If, however, any fee is believed to be due, you are hereby authorized to charge any such fee to deposit account No. 20-0778.

Respectfully submitted,

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